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WFO 148

DEPARTMENT OF AGRICULTURE

MAY 31, 1946

[WFO 148]

PART 1401—DAIRY PRODUCTS

EVAPORATED MILK

The fulfillment of requirements for the defense of the United States will result in a shortage of the supply of evaporated milk for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1401.207 *Evaporated milk required to be set aside*—(a) *Definitions*. (1) "Evaporated milk" means evaporated milk as defined in the definitions and standards of identity for evaporated milk (21 CFR, Cum. Supp., 18.520 et seq.), issued on June 28, 1940, pursuant to the Federal Food, Drug, and Cosmetic Act.

(2) "Person" means any individual, partnership, corporation, association, or any other business entity or organized group of persons, whether incorporated or not.

(3) "Producer" means any person who manufactures evaporated milk.

(4) "Receiver" means any person who has facilities or access to facilities which enable him to receive, store, and ship evaporated milk in carload lots, and who customarily ships evaporated milk in carload lots.

(5) "Set aside" means to set aside and hold for sale and delivery to any designated agency.

(6) "Designated agency" means any of the following: (i) The Armed Services of the United States (excluding, for the purposes of this order, the United States Army post exchanges, the United States Navy ship service departments, and the United States Marine Corps post exchanges); (ii) the United States Department of Agriculture (including, but not being limited to, any corporate agency thereof); (iii) the War Shipping Administration; (iv) any approved ship supplier designated as such by the War Shipping Administration; (v) the United States Veterans' Administration; and (vi) any other instrumentality or agency designated by the Administrator.

(7) "Armed Services of the United States" means the Army, the Navy, the Marine Corps, and the Coast Guard of the United States.

(8) "Administrator" means the Administrator, Production and Marketing Administration, United States Department of Agriculture, or any officer or employee of the Department to whom the Administrator has heretofore lawfully delegated, or to whom he may hereafter lawfully delegate, authority to act in his stead.

(b) *Restrictions*. (1) Every producer shall set aside, during each calendar month, a quantity of evaporated milk equal to such percentage or portion as the Administrator may order of all evaporated milk produced by him during such month.

(2) Upon receipt of specific authorization from the Administrator, any pro-

ducer may enter into an agreement with a second producer or a receiver whereby the second producer or receiver will set aside, in addition to any evaporated milk otherwise required to be set aside by him, a quantity of evaporated milk equal to all or part of the evaporated milk required to be set aside by the first producer, and the second producer or receiver shall so set aside such quantity of evaporated milk, within such period as the Administrator may specify, thereby fulfilling the requirements of the first producer pursuant to (b) (1) hereof, with respect to such quantity of evaporated milk.

(3) All evaporated milk set aside pursuant to the provisions hereof shall be stored under the same conditions of storage customarily observed to maintain the quality of evaporated milk, and shall be packaged and assembled for delivery in accordance with requirements and specifications of the designated agencies purchasing such evaporated milk.

(4) Any person who sold and delivered any quantity of evaporated milk to any designated agency during May 1946 may consider such quantity of evaporated milk as having been set aside, pursuant to the provisions hereof or Administrator's order pursuant hereto, by such person during June 1946 or any subsequent calendar month of 1946. Any person who sells and delivers any quantity of evaporated milk to any designated agency during any calendar month of 1946, subsequent to May 1946, in excess of the quantity thereof required to be set aside during such month by such person, pursuant to the provisions hereof or Administrator's order pursuant hereto, may consider such excess quantity of evaporated milk as having been set aside by such person during any subsequent calendar month of 1946.

(5) On and after July 1, 1946, neither a producer nor a receiver shall, unless authorized in writing by the Administrator, sell, contract to sell, or deliver, except to a designated agency, any evaporated milk so long as the total quantity of evaporated milk, set aside pursuant to the provisions of this order, and owned by the respective person, exceeds the total quantity of all evaporated milk required, by the provisions of this order, to be set aside by such person during the immediately preceding calendar month.

(6) Each producer and each receiver, respectively, shall retain in his possession at all times a quantity of set aside evaporated milk which is equal to the total quantity of evaporated milk required to be set aside by each such person minus the total quantity of evaporated milk (i) sold and delivered by each such person to designated agencies, and (ii) released from the set aside provisions of this order.

(7) The Administrator may release any set aside evaporated milk from the restrictions of this order if he determines that no designated agency has contracted for, or declared its intention or desire to contract for, such evaporated milk within such period as he may spec-

ify, or that such evaporated milk is not required for any such agencies.

(c) *Existing contracts*. The provisions of this order and of any regulation or order pursuant hereto shall be observed without regard to contracts heretofore or hereafter entered into or any rights accrued or payments made thereunder. This order shall not, however, be construed as reducing the amount of evaporated milk which any person is required to offer or deliver, under existing contracts or contracts subsequently entered into with any designated agency, to any such agency.

(d) *Records and reports*. (1) The Administrator shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person as may be necessary or appropriate, in the discretion of the Administrator, for the enforcement or administration of the provisions of this order, subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(2) Every person subject to this order shall, for at least two years (or for such other period of time as the Administrator may designate), maintain an accurate record of his transactions in evaporated milk.

(e) *Audits and inspections*. The Administrator shall be entitled to make such audits and inspections of the books, records and other writings premises or stocks of evaporated milk of any person, and to make such investigations as may be necessary or appropriate, in the discretion of the Administrator, for the enforcement or administration of the provisions of this order.

(f) *Petition for relief from hardship*. Any person affected by this order who considers that compliance herewith would work an exceptional or unreasonable hardship on him may file a petition for relief with the Administrator. Such petition shall be addressed to Administrator, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. Petitions for such relief shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. The Administrator may consider any such petition and take such action with reference thereto that he deems appropriate, and such action shall be final.

(g) *Violations*. Any person who violates any provision of this order or of any regulation or order pursuant hereto, may, in accordance with the applicable procedure, be prohibited from receiving, making any deliveries of, or using evaporated milk. In addition, any person who willfully violates any provision of this order or of any regulation or order pursuant hereto is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(h) *Delegation of authority.* The administration of this order and the powers vested in the Secretary of Agriculture of the United States, insofar as such powers relate to the administration of this order, are hereby delegated to the Administrator; and the Administrator is hereby authorized to redelegate to any employee or employees of the United States Department of Agriculture any or all of the authority vested in the Administrator by this order.

(i) *Communications.* All reports to be filed pursuant hereto and all communica-

tions concerning this order shall, except as provided herein or unless instructions to the contrary are issued by the Administrator, be addressed to the Administrator, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

(j) *Territorial scope.* This order shall apply only in the area included in the 48 States of the United States and the District of Columbia.

(k) *Effective date.* This order shall become effective at 12:01 a. m., e. s. t., May 31, 1946.

NOTE: The record-keeping requirements of this order have been approved by, and all subsequent record-keeping and reporting requirements will be subject to the approval of, the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9577, 10 F.R. 8087)

Issued this 31st day of May 1946.

[SEAL]

CLINTON P. ANDERSON,
Secretary of Agriculture.

United States Department of Agriculture Summary to WFO.

The U. S. Department of Agriculture announced today that producers of evaporated milk will be required to set aside 60 percent of their production during June for sale to Government agencies. This action, which is the first evaporated milk set-aside order issued by the Department of Agriculture, is being taken

in order to meet military and Government export requirements.

Present indications are that a total of about 12 million cases will have to be set aside during June, July, and August to meet these Government requirements for the balance of 1946. Military agencies will need about 2 million cases and the Department will need 10 million cases to help relieve famine conditions in European countries, including countries sup-

plied by UNRRA. Evaporated milk is particularly suitable for foreign relief shipment.

While production will not be as large this year at last, Government requirements have been reduced from 39 to 12 million cases. It is estimated that more than 50 million cases will be available for U. S. civilians during 1946 compared with 48 million cases last year.

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WFO 148-1

MAY 31, 1946

DEPARTMENT OF AGRICULTURE

[WFO 148-1]

PART 1401—DAIRY PRODUCTS

PERCENTAGE OF EVAPORATED MILK REQUIRED
TO BE SET ASIDE IN JUNE 1946

Pursuant to the authority vested in me by War Food Order No. 148, effective May 31, 1946, and in order to effectuate the purposes of such order, it is hereby ordered as follows:

§ 1401.208 *Percentage of evaporated milk to be set aside in June 1946*—(a) *Definitions.* Each term defined in War Food Order No. 148 shall, when used herein, have the same meaning as set forth for such term in said War Food Order No. 148.

(b) *Percentage.* Each producer shall set aside in the calendar month of June 1946 a quantity of evaporated milk equal

to 60 percent of all evaporated milk produced by him in such month.

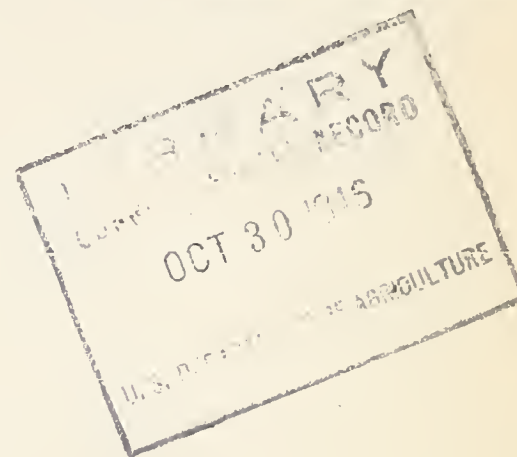
(c) *Effective date.* This order shall become effective at 12:01 a. m., e. s. t., June 1, 1946.

(E.O. 9280, 7 F.R. 10179; E.O. 9577, 10 F.R. 8087; WFO 148)

Issued this 31st day of May 1946.

[SEAL]

E. A. MEYER,
Assistant Administrator.



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Resume

WFO 148-2

JUNE 25, 1946

DEPARTMENT OF AGRICULTURE

[WFO 148-2]

PART 1401—DAIRY PRODUCTS

EVAPORATED MILK REPORTS REQUIRED

Pursuant to the authority vested in me by War Food Order No. 148, effective May 31, 1946 (11 F. R. 5995), and in order to effectuate the purposes of such order, it is hereby ordered as follows:

§ 1401.209 *Reports*—(a) *Definitions*. Each term defined in War Food Order No. 148 shall, when used herein, have the same meaning as set forth for such term in said War Food Order No. 148.

(b) *Reporting requirements*. Each person who, during June 1946 or any

subsequent calendar month, has in his possession or is obligated to have in his possession any evaporated milk required to be set aside pursuant to the provisions of War Food Order No. 148 shall correctly complete form "Dairy Products Report No. 7—Evaporated Milk Set-Aside Report" for each such calendar month. Each such completed form shall be mailed to the United States Department of Agriculture, Division of Agricultural Statistics, Bureau of Agricultural Economics, Washington 25, D. C., Ref. WFO 148, not later than the tenth day of the calendar month next succeeding the month for which such report is made.

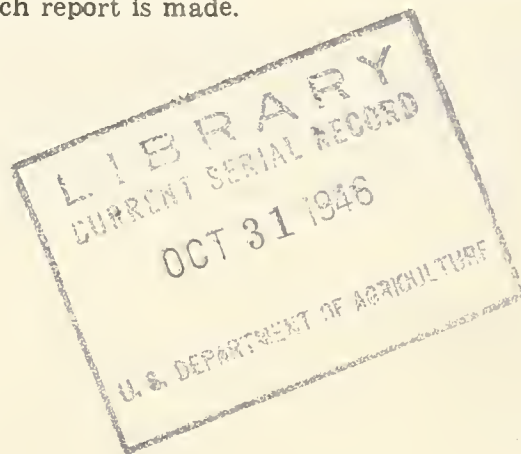
(c) *Effective date*. This order shall become effective at 12:01 a. m., e. s. t., June 25, 1946.

NOTE: All reporting requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9977, 10 F.R. 8087; WFO 148, 11 F.R. 5995)

Issued this 25th day of June 1946.

WILLIAM C. CROW,
Acting Assistant Administrator,
Production and Marketing
Administration.



F733 F

Reserve

DEPARTMENT OF AGRICULTURE

WFO 148-3

JUNE 26, 1946

[WFO 148-3]

PART 1401—DAIRY PRODUCTS

PERCENTAGE OF EVAPORATED MILK REQUIRED
TO BE SET ASIDE IN JULY 1946

Pursuant to the authority vested in me by War Food Order No. 148 (11 F.R. 5995), and in order to effectuate the purposes of such order, it is hereby ordered as follows:

§ 1401.212 *Percentage of evaporated milk to be set aside in July 1946—(a) Definitions.* Each term defined in War Food Order No. 148 shall, when used herein, have the same meaning as set forth for such term in said War Food Order No. 148.

(b) *Percentage.* Each producer shall set aside in the calendar month of July 1946 a quantity of evaporated milk equal to 50 percent of all evaporated milk produced by him in such month.

(c) *Effective date.* This order shall become effective at 12:01 a. m., e. s. t., July 1, 1946.

(E.O. 9280, 7 F.R. 10179; E.O. 9577, 10 F.R. 8087; WFO 148, 11 F.R. 5995)

Issued this 26th day of June 1946.

[SEAL]

WILLIAM C. CROW,
*Acting Assistant Administrator,
Production and Marketing
Administration.*

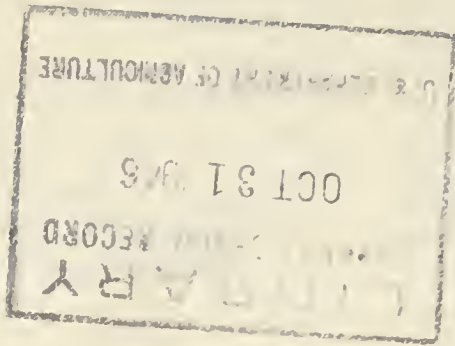
United States Department of Agriculture
Summary to WFO-148-3

The U. S. Department of Agriculture announced today that 50 percent of the July production of evaporated milk will be required to be set aside for sale to

Government agencies. For June, the set-aside was 60 percent of production. Present indications are that the set-aside order will be continued at least during August in order to meet 1946 Government requirements, now estimated at 12 million cases. Last year

Government agencies purchased about 39 million cases of evaporated milk.

Civilian supplies of evaporated milk are expected to total more than 50 million cases this year, compared with about 48 million cases last year.



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DEPARTMENT OF AGRICULTURE

WFO 148-3

TERMINATION

JULY 31, 1946

[WFO 148-3, Termination]

PART 1401—Dairy Products

EVAPORATED MILK

Pursuant to the authority vested in me by War Food Order No. 148 (11 F.R. 5995), War Food Order No. 148-3 (11 F.R. 7182), which requires that, during the calendar month of July 1946, each producer shall set aside a quantity of evaporated milk equal to 50 percent of

all evaporated milk produced by him in such month, is terminated as of 12:01 a. m., e. s. t., July 1, 1946.

The termination of said War Food Order No. 148-3, as effected herein, shall not be construed to affect in any manner, the terms, provisions, and requirements of, any violations of, or any rights accrued, liabilities incurred, or appeals taken under or in connection with, War Food Order No. 148 (11 F.R. 5995), War

Food Order No. 148-1 (11 F.R. 5996), and War Food Order No. 148-2 (11 F.R. 7125).

(E.O. 9280, 7 F.R. 10179; E.O. 9577, 10 F.R. 8087; WFO 148, 11 F.R. 5995)

Issued this 31st day of July 1946.

[SEAL]

E. A. MEYER,
Assistant Administrator, Pro-
duction and Marketing Ad-
ministration.

